IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 2180 of 2006(H)

PETITIONER:

PRASAD, S/O. PAVITHRAN,
MADHAVAMCHERIL HOUSE, KODOOKKARA,
KULAKKARAMANGALAM VILLAGE, VAIKOM TALUK.

BY ADV. SRI.T.A.SHAJI
SMT.T.V.NEEMA

RESPONDENTS:

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1. BLOCK DEVELOPMENT OFFICER, VAIKOM.

2. VAIKOM BLOCK PANCHAYATH,
REPRESENTED BY ITS PRESIDENT, VAIKOM.

3. ASSITANT ENGINEER,
BLOCK DEVELOPMENT OFFICE, VAIKOM.

4. DEPUTY TAHSILDAR (R.R), VAIKOM.

BY ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 2180/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE INSPECTION REPORT ALONG WITH THE REVISED PROPOSAL DATED 10/02/2000.

P2 : COPY OF THE RELEVANT PAGES OF THE PASS BOKK CONTAINING THE ENDORSEMENT REGARDING THE OPERATION OF THE ACCOUNTS.

P3 : COPY OF THE COMMUNICATION DATED 31/05/2001ISSUED by the 1ST RESPONDENT.

P4 : COPY OF THE REPRESENTATION TO THE BLOCK PANCHAYATH COMMITTEE BY THE PETITIONER.

P5 : COPY OF THE NOTICE DATED 12/08/2005 ISSUED BY THE 1ST RESPONDENT.

P6 : COPY OF THE NOTICE DATED 07/01/2006 ISSUED BY THE 4TH RESPONDENT.

P7 : COPY OF THE DETAILED STATEMENT OF ACCOUNTS OF THE AMOUNT.

P1 : COPY OF THE RECEIPT DATED 14/02/2006 FOR AN AMOUNT OF RS. 26250/-.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 2180 of 2006

Dated, this the 14th day of August, 2007

J U D G M E N T

Petitioner is challenging recovery proceedings for recovery of the contract amount advanced to the petitioner with interest thereon for failure to execute the work. I heard learned counsel for the petitioner and the learned Government Pleader. The work awarded was construction of a protection wall for the river at estimated cost of Rs. 4,37,406/-. Petitioner, as the convenor of the beneficiary committee, was given an advance of Rs. 50,000/- on 28/06/1999. Petitioner's case is that amount was partly used for mobilization of material which is rubbles. Since the work was not completed, the project was abandoned which was communicated vide Ext.P3 order dated 31/05/2001. Petitioner's case is that petitioner is not liable to pay any amount because the balance amount is still in the Bank account. Petitioner has paid an amount of Rs. 24,930/- under interim orders of this Court dated 01/02/2006. Since petitioner submitted that some rubbles remain stocked in the site, this Court vide order dated 25/05/2007 directed the respondents to sell the same. Government Pleader submitted that, inspite of earnest efforts, respondents could not sell the item.

2. Counter Affidavit filed by the concerned engineer clearly shows that no work was executed by the petitioner except bringing of some quantity of rubble to the site. Even though this Court offered to appoint a Commission to examine the work claimed to have been executed by the petitioner, petitioner is not willing to accept the offer which proves that what is stated in the counter affidavit is correct. In the circumstances, I do not find any justification to interfere with the proceedings for recovery initiated for recovery of the amount advanced with interest. Since the project was later abandoned on account of change in the design required and the cost involved, there is no scope for extending time for completion of work. In the circumstances, I dispose of the writ petition granting time to the petitioner to pay the balance amount with reduced rate of 6% simple interest per annum for the amount advanced. It is open to the petitioner to dispose of or appropriate the stocked material. If payment is not made within two months from now, recovery can be continued. The payment already made should be credited in petitioner's account and only balance will be recovered from the petitioner.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg